

AMENDED IN SENATE APRIL 14, 2009

SENATE BILL

No. 156

Introduced by Senator Wright

February 12, 2009

An act to add Section 1873.5 to the Insurance Code, ~~and to amend Section 4603.5 of the Labor Code~~, relating to insurance fraud.

LEGISLATIVE COUNSEL'S DIGEST

SB 156, as amended, Wright. ~~Workers' compensation: Insurance:~~ fraud prevention and detection.

Existing law generally provides for the prevention, detection, and investigation of insurance fraud. Under existing law, insurers are required to disclose to an authorized governmental agency information relative to incidents of workers' compensation fraud, as specified. ~~Existing law also requires employers to post certain notices relative to employer coverage for medical treatments related to workers' compensation claims, as specified.~~

This bill would authorize the Department of Insurance *or a district attorney* to convene meetings with insurers to discuss emerging trends and schemes involving insurance fraud and would provide that any person sharing information pursuant to that authorization would be protected from civil liability, as specified. ~~This bill would also require employers to send an employee an explanation of benefits notice when the employer pays for certain medical treatments or services as a result of the employee's workers' compensation claim, and would authorize the employer to send a notice about other medical payments, as specified.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) The California Department of Insurance regulates more than 123 billion dollars (\$123,000,000,000) of insurance business annually. Workers' compensation business accounts for 11.5 billion dollars (\$11,500,000,000) of that business as of 2006.

(b) A report issued by the Department of Insurance Advisory Task Force in May of 2008 estimated that insurance fraud of regulated businesses amounts to costs of 15 billion dollars (\$15,000,000,000) per year, costing each resident an average of more than five hundred dollars (\$500) per year.

(c) Perpetrators of fraud often involved more than one insurance program. An effective antifraud effort requires greater cooperation, coordination, and communication of impacted insurers, services, and regulating agencies.

(d) One effective strategy used by the Medicaid and Medi-Cal programs to combat fraud involves sending an explanation of benefits notice to the recipients of services who can then confirm if fraudulent or excessive billing has occurred. California's workers' compensation program does not provide this notice which many employers and law enforcement officials believe could help reduce incidents of fraudulent billing.

(e) It is the intent of the Legislature to enact statutory provisions to provide law enforcement regulators and the regulated community additional insurance antifraud tools and protections.

SEC. 2. Section 1873.5 is added to the Insurance Code, to read:

1873.5. The commissioner, ~~or~~ his or her designated deputy commissioner, *a district attorney, or his or her designated deputy district attorney*, may convene meetings with representatives of insurance companies to discuss emerging trends and schemes involving insurance fraud. Information shared during the course of those meetings, including possible evidence of other criminal activity not involving insurance fraud, shall be protected by the provisions of Section 1873.2.

~~SEC. 3. Section 4603.5 of the Labor Code is amended to read:~~

~~4603.5. (a) The administrative director shall adopt rules pertaining to the format and content of notices required by this article; define reasonable geographic areas for the purposes of~~

1 Section 4600; specify time limits for all such notices, and responses
2 thereto; and adopt any other rules necessary to make effective the
3 requirements of this article.

4 Employers shall notify all employees of their rights under this
5 section.

6 (b) (1) It is the policy of this state that an injured worker should
7 be sufficiently informed of the medical treatments being paid for
8 by the employer so that the worker can assist in the detection of
9 erroneous or fraudulent billing.

10 (2) The administrative director shall adopt regulations specifying
11 one or more approved forms of an explanation of benefits notice
12 which will inform an employee of the amount or amounts billed
13 and the amount or amounts paid by the employer for one or more
14 treatments, medicines, supplies, devices, or services provided by
15 the employer pursuant to this article. The notice shall, at a
16 minimum, include the date of service, the name of the individual
17 or organization provider of service, and a simple description of
18 the service. The notice shall encourage the employee to advise the
19 employer of any discrepancies between the items billed and the
20 treatments, medicines, supplies, devices, or services received by
21 the employee.

22 (3) The administrative director, in consultation with the
23 Commission on Health and Safety and Workers' Compensation,
24 shall adopt regulations specifying the method for selecting the
25 medical payments for which an employer shall be required to
26 provide the explanation of benefits notice to the employee. In
27 developing the selection method, the administrative director and
28 the commission may consider the cost of providing the notice to
29 an individual compared to the potential benefit of reducing medical
30 payment errors and fraud.

31 (4) An employer shall provide to the employee an explanation
32 of benefits notice in a form approved by the administrative director
33 for any medical payment for which a notice is required by
34 regulations adopted by the administrative director. An employer
35 may, in its discretion, provide explanation of benefits notices in a
36 form approved by the administrative director for medical payments
37 for which a notice is not required. If the employee is represented
38 by an attorney, the employer shall provide a copy of the notice to
39 the attorney concurrently with providing the notice directly to the
40 employee. The employee shall be allowed to reply to the employer,

- 1 ~~and the employer shall provide the employee's attorney with a~~
- 2 ~~copy of the reply if it does not appear that the employee has~~
- 3 ~~provided a copy to the attorney. The employer shall provide the~~
- 4 ~~attorney a summary of the reply if the reply is received verbally.~~